

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

DAVID J. DAVIS, JR., #582332,  
A.K.A. THUNDER CLOUD DAVIS

VS.

CHERYL KYLE, ET AL.

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CIVIL ACTION NO. 6:08cv79

ORDER OF DISMISSAL

Plaintiff David J. Davis, Jr., a.k.a. Thunder Cloud Davis, a prisoner confined in the Texas prison system, proceeding *pro se* and attempting to proceed *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the complaint should be dismissed pursuant to the “three strikes” provisions of 28 U.S.C. § 1915(g). The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections by the Plaintiff are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the motion to proceed *in forma pauperis* (docket entry #2) is **DENIED**.

It is further

**ORDERED** that the complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

**ORDERED** that the Plaintiff may proceed with the lawsuit if he pays the entire filing fee of \$350 within thirty days from the entry of this Order. *See Carson v. Johnson*, 112 F.3d 818, 823 (5th Cir. 1997). It is finally

**ORDERED** that all motions by either party not previously ruled on are hereby **DENIED**.

**So ORDERED and SIGNED this 2nd day of May, 2008.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS**  
**UNITED STATES DISTRICT JUDGE**